IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 24231 of 2002

Between:

P.Mohan Rao s/o Late Satyanarayana,
D.No.8466, Danampeta Ichapuram,
Srikakulam District.

..... PETITIONER

AND

1 The State Transport Appellate Tribunal, A.P.Hyderabad,

by its Presiding Officer,Manoranjani Complex,

near Ajantha Gate of

Exhibition Grounds, Mojamjahi Road, Hyderabad.
2 The State Transport Authority, A.P.,

by its Secretary, Burgula

Ramakrishna Rao Buildings, Tank Bund Road., Hyderabad.
3 The A.P.S.R.T.C.,

rep. By its Vice Chairman and Managing Director,

Musheerabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction one in the nature of Writ of Certiorari call for the entire records from the file of the 1st respondent in R.P.13/2001 and quash its order dt.6-11-2002, setting aside the order of the 2nd respondent dt.27-10-99 in supplementary item No.1 in R.No.6914/E3/99 granting a pucca stage carriage permit on the route

Donkuru Bridge to Ichapuram and to grant such other relief or reliefs.

Counsel for the Petitioner : MR.T.VENKATA RAMANA

Counsel for Respondent Nos.1 and 2: GP FOR TRANSPORT

Counsel for Respondent No.3: MR. K.SRINIVAS RAO

The Court made the following :

ORAL ORDER:

Heard Sri.T.Venkataramana, learned counsel appearing for the petitioner, Sri.K.Srinivasa Rao, learned counsel appearing for the 3rd respondent and the learned Government Pleader for Transport appearing for respondent Nos.1 and 2.

Aggrieved by the decision of the 1st respondent-State Transport Appellate Tribunal recorded in R.P.No.13 of 2001, by the order dated 06-11-2002, the 2nd respondent therein has filed this writ petition.

On 17-05-1999 the petitioner applied for grant of a stage carriage permit of what is characterized as an “Inter-state enclave route”-Ichapuram to Donkuru bridge via Savaradevipeta (NH 5), Enisepeta, Dharmapuram, Poornatakam, Katari, Edupuram (village) Kasipuram Jun., and Berajapadu. The application was made to the State Transport Authority, Hyderabad (for brevity ‘STA’). As the STA was allegedly not expeditiously considering his application, the petitioner filed W.P.No.16291 of 1999 before this Court for a direction to expeditiously consider his application. This Court granted an appropriate direction. Pursuant thereto, the STA on 16-10-1999 took up the application of the petitioner dated 17-05-1999, as supplemental item No.1 on its agenda. The STA noted that the total length of the route applied for by the petitioner is in a length of 16.4 Kms, of which, 1.3 Kms is in the State of Orissa and 15.1 Kms in Andhra Pradesh. The proposed route overlaps three approved and notified routes in G.O.Ms.No.1066 of 1987, dated 09-11-1987, to a partial extent. The STA noted that as these approved schemes permit partial overlapping of upto 8 Kms of the notified routes and as the route formulated and applied for by the petitioner does not transgress the 8 kms limit of overlapping on the said notified routes, the route applied for by the petitioner does not fall foul of the notified routes and is within the permissible limits thereof. It would appear that the learned counsel for A.P.S.R.T.C had entered appearance before the STA but had not set out any objections and the

STA recorded that no contentions were advanced by the counsel for A.P.S.R.T.C. On a consideration of the issue, the STA granted a pucca stage carriage permit to the petitioner on the route he formulated and applied for, as adverted to supra.

It requires to be noted that two other operators Sri.J.Prabhakara Rao and Smt.B.Kalyani had also submitted applications for grant of pucca stage carriage permits on the same route, as applied for by the petitioner herein. The applications of these individuals were considered as supplemental Item No.2 by the STA, also on 16-10-1999, and for reasons alike as recorded in the case of the petitioner, the STA granted pucca stage carriage permits to these two individuals also.

Aggrieved by the grant of pucca stage carriage permits to the petitioner and the other two individuals mentioned above, the A.P.S.R.T.C-3rd respondent herein filed revision petitions before the State Transport Appellate Tribunal-1st respondent. As against the grant of pucca stage carriage permits to Sri.J.Prabhakara Rao and Smt.B.Kalyani, the 3rd respondent herein filed R.P.No.14 of 2001, while against the grant of a pucca stage carriage permit to the petitioner herein, the 3rd respondent filed R.P.No.13 of 2001. All the revision petitions were filed under Section 90 of the Motor Vehicles Act, 1988(for short 'the Act').

In the revision petitions, *inter alia,* it was contended by the 3rd respondent herein:

a. that the route in respect of which pucca stage carriage permits were granted by the STA overlap the notified routes including in G.O.Ms.No.1111 and 1116, dated 09-11-1987 for a distance of 6.0 Kms and as per the conditions of the schemes therein, the grant of permits even for such overlapping is proscribed.

b. That the route in question was not formulated by the State Government as required under Section 68(3)(ca) of the Act and therefore grant of permits is impermissible; and

c. That the route in question is not incorporated or included in the inter State agreement (between Andhra Pradesh and Orissa) and therefore the grant of permits on such a route is impermissible, particularly in the light of the ratio of the judgment of the Supreme Court in ***"ASHWANI KUMAR v. REGIONAL TRANSPORT AUTHORITY, BIKANER"***.

Other grounds have also been urged, which may not be necessary to be dilated upon, in the context of the restricted focus, on which this writ petition is being considered and disposed of.

The 1st respondent-Tribunal by an order dated 23-09-2002 allowed R.P.No.14 of 2001, the order of the STA dated 16-10-1999, granting Stage Carriage permits on the Inter-State route to Sri J.Prabhakara Rao and Smt B.Kalyani was set aside, and the primary authority, the STA, was directed to consider the applications of those individuals afresh after giving an opportunity to the 3rd respondent herein, the revision petitioner. This order was passed by the 1st respondent, in R.P.No.14 of 2001 on a conclusion that the revision petitioner, State Transport Undertaking, was not afforded an adequate and reasonable opportunity of filing its objections before the primary authority and, therefore, the decision of the primary authority to grant the pucca stage carriage permits was flawed for being in violation of the essential principle of natural justice namely *audi alteram partem.*

In so far as R.P.No.13 of 2001 is concerned, the 1st respondent-Tribunal allowed the revision setting aside the order of the primary authority-STA granting permit to the writ petitioner, but did not direct a *de novo* consideration by the STA. R.P.No.13 of 2001 was allowed not on the ground that the State Transport Undertaking was not afforded a reasonable opportunity by the STA, though that fact was also recorded in passing, but on a substantive ground that as the route in question was an Inter State route, no permit could have been granted on such route without an Inter State agreement for such a route between the two concerned States on the basis of a reciprocity and consensus as to formulation and identification of an Inter State route. This conclusion was arrived at by the 1st respondent-Tribunal on the basis of the judgment of the Supreme Court in ***ASHWANI KUMAR'***s case (1 supra).

Sri.T.Venkataramana, learned counsel for the petitioner assails the reasons recorded and the conclusions of the 1st respondent-Tribunal in R.P.No.13 of 2001 on a plurality of grounds:

a. that the State Transport Undertaking having entered appearance at the meeting of the STA held on 16-10-1999 had not chosen to put forth its objections or contentions and therefore was estopped from challenging the decision of the STA, including in a revision under

Section 90 of the Act;

b. that the State Transport Undertaking no different from any other existing operator including a private operator and has no *locus standi* to oppose or object to the grant of a permit either generally under Section 80 of the Act or in the context of an Inter State route under Section 88 of the Act, unless such route potentially runs contrary to the conditions of an approved scheme in its favour. As the STA had found and recorded so in its decision dated 16-10-1999 that the route applied for by the petitioner does not run contrary to the conditions of the approved schemes in G.O.Ms.No.1066 dated 09-11-1997, the State Transport Undertaking has no *locus standi* to have preferred a revision against the order of the STA in the petitioner's favour;

c. that in view of the judgment of the Supreme Court and the ratio emanating therefrom in "***MITHILESH GARG v. UNION OF INDIA",*** a Stage Carriage permit applied for by a private operator either on an Intra State route under or in respect of Inter State route under Section 88 of the Act ought to be liberally considered and must be granted for the mere asking, unless it is demonstrated to be impermissible on account of an approved route and the conditions therein;

d. that the 1st respondent-Tribunal erred in coming to a conclusion that the route formulated and applied for by the petitioner for grant of a pucca stage carriage permit is not included in the Inter State agreement, without any factual basis for such conclusion. On this aspect of the matter, Sri. Venkataramana, learned counsel pointed out that from 29-05-2001 to 06-11-2002 on which latter date the order in R.P.No.13 of 2001 was pronounced, no records were received by the 1st respondent from the STA. Except a legal plea of the State Transport Undertaking-3rd respondent that no permit could be granted in respect of a route not including in an Inter State agreement, no factual data existed before the 1st respondent-Tribunal to conclude that the route in question was not included in an Inter State agreement and therefore, the decision of the 1st

respondent-Tribunal on the basis of such a factual conclusion without any material in support of such conclusion is perverse and unsustainable. Alternatively, Sri Venkataramana, learned counsel, contended that on this aspect and in the factual matrix of the case, the 1st respondent ought to have followed the same precedent as in R.P.No.14 of 2001, namely it should have remanded the matter to the STA for appropriate factual determination.

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e. Substantively on the interpretation of the provisions of Section 88 of the Act, Sri Venkataramana, learned counsel contends with customary eloquence that in view of the provisions of the Section and in particular the proviso to Sub Section (1) of Section 88 of the Act, no inclusion in an Inter State agreement is required in respect of a route which does not require counter signature of the authorities of the other State, within the meaning of the provisions of the second proviso to sub Section (1) of Section 88 of the Act.

In substance this contention is that where a route applied for commences in one State, proceeds to another State and terminates in the State of origin with the distance traversed in the other State being less than 16 kms, as no counter signature of the transport authorities of the other State is required in view of the provisions of the second proviso to Section 88(1) of the Act, there is no requirement of inclusion of such a route in an Inter State agreement as required under Section 88(5) and (6) of the Act either.

The contention on behalf of the petitioner assailing the *locus standi* of the 3rd respondent-State Transport Undertaking in respect of either the decision making process of the STA or to have instituted a revision petition before the 1st respondent does not commend acceptance of this Court. Unlike a private operator, including an existing private operator, the State Transport Undertaking is the beneficiary of a large number of routes under approved and notified schemes. These routes often criss-cross the territory of a State. The various notified schemes in favour of the State Transport Undertaking contain various conditions, which are not always or altogether uniform. Some of these conditions prohibit any overlapping by the existing or new operators and sometimes they do not. The notified schemes in

favour of the State Transport Undertaking are not confined to only one region. There is no presumption in law that a State Transport authority is aware or conscious of all the notified schemes in favour of the State Transport Undertaking nor is there a presumption that it can exclusively interpret the conditions of all or any of the notified schemes without the assistance or participation by the State Transport Undertaking, in a context where an application is made for grant of a stage carriage permit. Therefore, as the State Transport Undertaking has a potential interest, whenever an application is made by a private individual for grant of a stage carriage permit, and as the State Transport Undertaking may potentially be adversely effected by the grant of any stage Carriage permit, it is entitled to submit its objections and the permit granting authority is obligated to afford a reasonable opportunity to the State Transport Undertaking to submit its objections with due opportunity afforded to place before the permit granting authority the particulars of the approved and notified schemes as also to interpret the conditions therein. The right to such an opportunity is the *locus standi* of the State Transport Undertaking to appear before the permit granting authority to effectively make its submissions. The appearance of the 3rd respondent herein before the State Transport Authority in the case on hand was, therefore, not a gratuitous coincidence, but in pursuance of the legal right of the State Transport Undertaking to have participated in the decision making process of the STA in the matter of the application of the petitioner for grant of a stage carriage permit. This right of the State Transport Undertaking is the same whether the application by a private operator is for grant of a stage carriage permit on an intra or an inter State route. On this analysis, the contention of the petitioner that the 3rd respondent has no *locus standi*, does not commend acceptance of this Court and is hereby rejected.

Regarding the contention that as the 3rd respondent was present before the STA on 16-10-1999 but failed to submit its objections or contentions and therefore was disentitled to file a revision under Section 90 of the Act before the 1st respondent urging a grievance that the permit was granted to the petitioner illegally and in violation of the provisions of the Act or of the approved schemes, it must be stated that this contention too is without merit or force. As has been recorded in R.P.No.14 of 2001 and as it is apparent from the record of the STA, the application of the petitioner herein as well as the applications of Sri.J.Prabhakara Rao and Smt. B.Kalyani were taken up as supplemental items by the STA. True it is, that the

learned counsel for the 3rd respondent herein was present at the proceedings before the STA when the case of the petitioner was being considered and it is also contended on behalf of the petitioner that a vakalat was filed on behalf of the 3rd respondent before the STA, a contention that is not demurred by the 3rd respondent. But the mere physical presence of the representative of the 3rd respondent does not constitute adequate compliance with a seminal principle of natural justice. Affording reasonable opportunity is a principle, which cannot be jettisoned by ritualistic compliance; it should be an adequate real and meaningful opportunity. That was the complaint of the 3rd respondent which has commended acceptance by the 1st respondent in R.P.No.14 of 2001 wherein the 1st respondent found that no adequate and reasonable opportunity was afforded to the 3rd respondent herein in the matter of grant of pucca stage carriage permits to Sri.J.Prabhakara Rao and Smt. B.Kalyani(subject matter of R.P.No.14 of 2001). This was also the complaint of the 3rd respondent as urged before the 1st respondent in R.P.No.13 of 2001.

In the above circumstances and particularly as the grounds urged by the 3rd respondent herein before the 1st respondent-Tribunal in support of its challenge to the grant of a pucca stage carriage permit to the petitioner are substantially legal grounds, though some of them may require support on factual matrix, the 3rd respondent was well within its legal brief to have urged those grounds for a revision by the 1st respondent-Tribunal of the decision of the STA. This contention of the petitioner equally deserves rejection and is accordingly rejected.

Relying on ***MITHILESH GARG***'s case (2 supra), on behalf of the petitioner, it is contended, alternative to the *locus standi* plea that as the policy of the Act of 1988, in contradistinction to the policy of the Motor Vehicles Act, 1939, is for a liberalized grant of permits to facilitate the locomotional rights of the citizens and as the State of Orissa or its Transport officials have not objected to the grant of a permit in favour of the petitioner, no interference by the 1st respondent-Tribunal was justified. True it is, that the provisions of the Act signal a liberalization of the regulatory regime in the matter of grant of permits to ply vehicles and as the thrust of the legislative intent is to enable effectuation of public interest by grant of permits to all eligible applicants, the officials regulating grant of permits must be sensitive and conscious of this legislative policy as pointed out in ***MITHILESH GARG***'s case (2 supra). However, a

liberal attitude of the authorities under the Act is not synonymous with an abdication of their statutory responsibilities. The regulating authorities under the provisions of the Act are required to scrupulously screen the applications on all statutory parameters, which include Inter State interests in the context of the federal architecture of our Constitution as well as the interests of State Transport Undertakings within the rubric of the notified routes. The health, safety and sustainable ecological parameters are equally areas that should sensitize the statutory authorities under the Act while exercising the power to grant permits. Within these parameters and consistent with the explicit and implied values of the provisions of the Act, some of which have been indicated above, the statutory authorities must adopt liberal standards in the matter of granting permits is what ***MITHILESH GARG***'s case (2 supra) points out. This nuance of the ratio in the ***MITHILESH GARG***'s case (2 supra) is apparent from these two sentences in para No.15 of the judgment:

> "It is for the authority to take into consideration all the relevant factors at the time of quasi-judicial consideration of the applications for grant of permits. The statutory authorities under the Act are bound to keep a watch on the erroneous and illegal exercise of power in granting permits under the liberalised policy".

The contention of the petitioner that in view of the principles laid down by the Supreme Court in ***MITHILESH GARG***'s case (2 supra), the 1st respondent-Tribunal ought to have eschewed consideration of the objections of the 3rd respondent Undertaking does not therefore commend acceptance by this Court and is rejected.

Section 88 of the Act, to the extent relevant and material for the purposes of this writ petition, reads as under:

"**88. Validation of permits for use**

outside region in which

granted:-

1. Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region,

and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:

Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State, shall be valid in that area without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned:

Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometers, the permit shall be valid in the other State in respect of that part of the route which is in that other state notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State:

Provided also that-

a. where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and

b. any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.

2. Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit.

3. A regional Transport Authority when countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the

permit and may likewise vary any condition attached to the permit by the authority by which the permit was granted.

4. The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits:

Provided that it shall not be necessary to follow the procedure laid down in Section 80 for the grant of countersignatures of permits, where the permits granted in any one State are required to be countersigned by the State Transport Authority of another State or by the Regional Transport Authority concerned as a result of any agreement arrived at between the States after complying with the requirements of sub-section (5).

5. Every proposal to enter into an agreement between the States to fix the number of permits which is proposed to be granted or countersigned in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in regional language circulating in the area or route proposed to be covered by the agreement together with a notice of the date before which representations in connection therewith may be submitted, and the date not being less than thirty days from the date of publication in the Official Gazette, on which, and the authority by which, and the time and place at which, the proposal and any representation received in connection therewith will be considered.

6. Every agreement arrived at between the States shall, in so far as it relates to the grant of countersignature of permits, be published by each of the State Governments concerned in the Official Gazette and in any one or more of the newspapers in the regional language circulating in the area or route covered by the agreement and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it.

7. Notwithstanding anything contained in sub-section (1), a Regional Transport Authority of one region may issue a temporary permit under Section 87 to be valid in another region or State with the concurrence, given generally or for the particular

> occasion, of the Regional Transport Authority of that other region or of the State Transport Authority of that other State, as the case may be."

It is contended on behalf of the petitioner that the route formulated and applied for by him traverses territory in the State of Orissa only to a length of 1.3 Kms while commencing and terminating in the State of Andhra Pradesh and is therefore within the 16 Kms limit specified in the second proviso to Section 88(1) of the Act. No countersignature of the State Transport Authority or the Regional Transport Authority of the State of Orissa is required in view of the explicit provisions of the second proviso to Section 88(1) of the Act. Therefore, the contention runs, this route need not find expression in nor is it required to constitute a part of the agreement between the States of Orissa and Andhra Pradesh under Section 88(5) of the Act.

Section 88 of the Act, in the considered view of this Court, signals a recognition to the federal character of our Republic. Under the scheme of distribution of powers under the Constitution, the various States in the Republic are invested with wide and varied fields of legislations and the complimentary executive power in areas as diverse-as law and order, health and safety of the inhabitants and the like. They also have constitutionally implicated right to regulation of various activities in the territories comprised within the State including substantive powers of regulation and taxation in respect of activities within such available legislative fields. Despite technological advances, plying of motor vehicles, particularly in the context of the occasional indifference of the regulatory authorities in some States, could pose a potential threat to the environment, ecology, health and safety of the inhabitants of a State. In the matter of intra-State regulation of grant of permits, indisputably, a large measure of statutory discretion inheres in the State and Regional Transport Authorities of a State to regulate the grant of such permits. In the matter of grant of permits on inter- State routes, it would be contrary to the federal character of our Republic if the Transport authorities of one State could willy-nilly and without the concurrence of the transport authorities of another State, grant permits which enable motor vehicles of one State to transgress into the territory of another State, without some regulatory consensus by the authorities of the other State. If such be the case, the State, other than the State in which the permits were granted, would be a helpless spectator to the regulatory regime of the authorities of the other State

without having a say in the matter of plying of vehicles within its territory, on a host of current or potential grounds such as the health and safety, environment and ecological factors. It is also possible that the notified routes of that other State may be adversely impacted by the grant of inter-State permits including what is called an "Enclave route" since in the context of an inter-state stage carriage permit there is a transgression into the territory of another State. Section 88 (5 and 6) of the Act are, therefore, provision that recognize the federal character of our Republic and involve the States concerned in the decision making process relating to grant of inter-State permits in the matter of fixing the number of permits that are proposed to be granted in respect of each route or area that has Inter State territorial implications.

Whether the grant of such permits require countersignature of the Transport Authorities of the other State, is a matter of little significance in the context of a consensus between the concerned States in the matter of fixing the number of permits that could be granted and identification of routes. At the stage of fixing the number of permits, routes or areas the relevant States, which are involved, must necessarily be agreed within the context of the provisions of Section 88(5 and 6) of the Act.

The second proviso to sub-section (1) of Section 88 of the Act carves out, an exception to the provisions of sub-section (1) of Section 88 of the Act. Under sub-section (1) of Section 88 of the Act, a permit granted by the Regional Transport Authority of any one region is not valid in any other region unless countersigned by the Regional Transport Authority of that other region and a permit granted in any one State is also not similarly valid in any other State unless counter signed as above. To this general rule postulated in sub-section (1) of Section 88 of the Act, an exception is carved out by the second proviso, in respect of a route which originates in one State and terminates in the same State but traverses the territory of another State to a distance not exceeding 16 Kms. In such factual circumstances of the route, the second proviso to sub-section (1) of Section 88 of the Act dispenses with the requirement of counter signature. This proviso does not eclipse the statutory requirements of sub-section (5) of Section 88 of the Act whereby an inter-State agreement is required in respect of the fixation of permits, which have an Inter State territorial application.

Under sub-section (7) of Section 88 of the Act, which also incorporates a *non obstante* provision qua sub-section (1) of Section 88 of the Act, a Regional Transport

Authority of one region is entitled to issue a temporary permit under Section 87 of the Act to be valid in another region or a State with the concurrence generally or particularly, of a Regional Transport Authority of the other region or of the State Transport Authority of that other State (emphasis supplied). If even the grant of a temporary permit which has inter-State territorial implications requires the concurrence of the State Transport Authority of the State other than the issuing State, it is axiomatic that in the matter of grant of a pucca stage carriage permit, which has inter-State territorial implications, inclusion of such an Inter State route in an agreement between the concerned States is a *sine qua non,* consistent with the federal character of our Republic. Any other interpretation of the provisions of Section 88 of the Act would do violence to this federal character and must be avoided as a principle of interpretation.

On the above analysis, this Court is not persuaded that the route applied for by the petitioner does not require incorporation in an inter-State agreement under Section 88(5) of the Act. Further under Section 88(5) of the Act, it is the State Government concerned that should fix the number of permits proposed to be granted and determine the route or area in respect of which such permits should be granted. On publication of such proposals, representations may be received and considered. By implication an inter-state route should be formulated by the State Governments and not by individuals.

Sri. Venkataramana, learned counsel for the petitioner, has contended that in the absence of any factual basis on the aspect as to whether the route applied for by the petitioner is included in an inter-State agreement between the States of Andhra Pradesh and Orissa, the 1st respondent-Tribunal could not have concluded that the route was outside such an agreement and quashed the same.

As is apparent from the record, the 1st respondent-Tribunal appears to have adjudicated the revision even without receipt of the records from the STA.

The complaint of the 3rd respondent-A.P.S.R.T.C, in R.P.No.14 of 2001 is that it was not afforded adequate opportunity by the STA and the situation is no different in this case, insofar as, that factor is concerned. On factorial similarity between R.P.No.14 of 2001 and the facts of this case, the inference is compelling that the 3rd

respondent was not afforded an adequate and fair opportunity by the STA before the decision on 16-10-1999 was taken. In the absence of any records before it, the 1st respondent could not have concluded that the route applied for by the writ petitioner did not find mention in the inter-State agreement. Therefore, the appropriate course for the 1st respondent-Tribunal was to have remanded the matter to the STA directing the STA to afford reasonable and fair opportunity to the 3rd respondent herein for submitting its objections including on aspects relevant to Section 88 of the Act. The conclusion of the 1st respondent that the route applied for by the petitioner is not included in an inter-State agreement is apparently without a factual basis. Such a conclusion being based on no evidence beseeches invalidation.

On the analyses above, the order of the 1st respondent-Tribunal dated 06-11-2002 in R.P.No.13 of 2001 is set aside. The order of the 2nd respondent State Transport Authority dated 16-10-1999 insofar as a pucca stage carriage permit has been granted to the petitioner in respect of the Inter State route Ichapuram to Donkuru bridge via Savaradevipeta (NH 5), Enisepeta, Dharmapuram, Poornatakam, Katari, Edupuram (village) Kasipuram Jun., and Berajapadu is also set aside. The 2nd respondent is directed to *de novo* consider the application of the petitioner for grant of a pucca stage carriage permit on the Inter State route, after affording reasonable and rational opportunity to the 3rd respondent-A.P.S.R.T.C to prefer its objections. Needless to record that as critical legal and factual issues are involved, the 2nd respondent is required to pass a reasoned order recording reasons for its decision on the application of the petitioner for the grant of stage carriage permit and in the context of any objections that may be submitted by the 3rd respondent. Having regard to the fact that the petitioner had been granted a stage carriage permit on the route by the 2nd respondent on 16-10-1999 which was invalidated by the 1st respondent-Tribunal by the order impugned herein and which order has been suspended by this Court on 05-12-2002 leading to a situation where the petitioner continues to ply the bus and as the order of the 2nd respondent dated 16-10-1999 has also been set aside again by this Court resulting in a situation where the petitioner would be put to factual and economic distress, the 2nd respondent is directed to constitute itself and pass an order on the application of the petitioner dated 17-05-1999 for grant of a pucca stage carriage permit with utmost

expedition and in any event within eight weeks from the date of receipt of a copy of this order. The petitioner's right to ply the vehicle on the inter-state route shall be subject to the decision taken by the 2nd respondent.

Writ petition is accordingly disposed of.

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03-02-2005

vs

To

1 The Presiding Officer, State Transport Appellate Tribunal,

A.P.Hyderabad,

Manoranjani Complex, near Ajantha Gate of

Exhibition Grounds, Mojamjahi Road, Hyderabad.

2 The Secretary, State Transport Authority, A.P., Burgula

Ramakrishna Rao Buildings, Tank Bund Road., Hyderabad.

3 The Vice Chairman and Managing Director, A.P.S.R.T.C.,

Musheerabad.,Hyderabad.

4 Two CCs to the G.P for Roads and Buildings, High Court

Buildings,Hyderabad(O.U.T)

5 2 CD copies